Equality of Opportunity and Freedom from Discrimination

MHR Connections

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Touchdown For Human Rights

Newly drafted Montreal Alouettes Michael Sam has made history by being the first openly gay player in the Canadian Football League. As many students and teachers learned earlier this year at our DREAM Youth Conferences there are still barriers in the locker room for LGBTQ. Anti-gay slurs often result in athletes quitting their sport or hiding their sexuality. Having such a high profile openly gay athlete in a major sport is very encouraging for young LBGTQ athletes who may be facing barriers.

In Manitoba, the Winnipeg Blue Bombers You Can Play Ambassador, Teague Sherman spoke to students at our DREAM Youth Conferences, with the message that there is no room for discrimination on the field with respect to sexual orientation. You Can Play is an international organization committed to inclusion and diversity in sports. It is endorsed by professional sports teams and is helping to break down barriers for LGBTQ athletes. The MHRC Keynote Speaker Scott Heggart (and Youth Can Play representative) talked about what it would have meant to him as a young male athlete to have had any of his sports heroes speak out and say that it was ok to be gay.

Because major sporting events and professional teams capture such wide spread attention, this is an arena to dispel myths, break-down barriers and create a more diverse and respecting society. Congratulations for the CFL for endorsing the ideals of equality and to the Alouettes for signing such a great talent, who is also a great role model.

The Rights Connection Genetic Discrimination

by Azim Jiwa - Executive Director

As genetic testing becomes more available, affordable and widespread, there is a growing recognition that it could potentially result in genetic discrimination. Genetic discrimination is the use of genetic information about an individual to treat that individual differently in a way which imposes barriers. The most common areas where this might arise are insurance and employment.

One question is the extent to which people should have to give to others private genetic information about themselves, especially when that information does not necessarily indicate an existing health issue. The other question is whether the risk of genetic discrimination is discouraging people from getting tests that might otherwise be helpful to them from a healthcare perspective. In 2013 the federal government's throne speech stated that the government will "prevent employers and insurance companies from discriminating against Canadians on the basis of genetic testing." To date, only a private senate bill has been introduced. Bill S-201, introduced by Senator Cowan in 2013, proposed to prohibit any requirement that genetic test results be required to obtain goods or services or as part of contracts and agreements. The Canadian Human Rights Commission spoke in support of this bill before the Senate Committee in late 2014. (Read the full speech here http://bit.ly/1KsrUKB)

Unfortunately, the Senate Committee reviewing the proposed bill has recently recommended deleting most of its provisions. The Committee appears to have been concerned with a possible constitutional issue since insurance contracts generally fall within the jurisdiction of the provincial human rights commissions.

In Manitoba, genetic discrimination, although not expressly enumerated, would likely be covered under *The Human Rights Code* if the discrimination was linked to a disability, perceived or potential. As with all human rights complaints filed in Manitoba, a complaint of genetic discrimination would need to be investigated to determine first if there was evidence to support the allegations and secondly, if the discrimination was reasonable in the circumstances.

Several countries have already enacted legislation to address the potential of genetic discrimination. Serious thought needs to be given as to whether our society would also benefit from such legislation.

MHRC disappointed by Dismissal of Pregnancy Complaint

A Government-appointed human rights adjudicator has determined that a woman's pregnancy was not a factor in her employer terminating her employment.

The Commission had investigated the complaint and determined that there was sufficient evidence that the woman's pregnancy was a factor in her employer's decision to terminate her employment to send the matter to a hearing before an independent adjudicator.

Ms Blatz held a senior executive position with 4L Communications Inc. and had been rewarded for her hard work in financial compensation and other incentives.

It was within months after she told her employer that she was pregnant and would have to limit her work hours that her employment was terminated. Adjudicator Dawson was not prepared to determine that her pregnancy was a factor in the decision and instead accepted the employer's evidence that there were non-discriminatory reasons to terminate Blatz's employment.

Chair of the Board of Commissioners, Yvonne Peters, expressed disappointment with the decision issued yesterday, "This decision raises some concern. We know that discrimination today is not overt and can be very subtle, regardless of whether it is based on pregnancy, ancestry or any of the other grounds *The Code* protects. In reviewing complaints of discrimination, it is important to examine the evidence as a whole and not rely on only direct evidence of discriminatory behaviour. As case law supports, discrimination may be inferred based on the conduct of individuals, especially in cases where an employee is terminated shortly after disclosing pregnancy. In this case, Adjudicator Dawson was not convinced by the Commission's arguments. I would like to reassure the public that the Commission will continue to investigate complaints thoroughly and to send complaints to hearings where it finds that there is sufficient evidence of discrimination or harassment."

The Manitoba Human Rights Commission investigates complaints of discrimination and harassment under *The Human Rights Code*. When there is sufficient evidence to support violations of *The Human Rights Code* the Commission will offer the parties the opportunity to attempt to resolve complaints in a confidential mediation process. If the matter is not resolved in mediation the Board of Commissioners will request that an independent adjudicator be appointed to hold a hearing to determine the complaint. At that hearing, the Commission presents the complaint to the adjudicator in the public's interest.

The Commission is also responsible for educating the public about their rights and responsibilities under *The Human Rights Code*.

Two more discrimination complaints relating to pregnancy are anticipated to be heard publicly during the summer of 2015.

Why Race Matters

By Joshua Shaw & Isha Khan

Dr. Cornel West explained why race matters to Winnipeg. Dr. West is a Princeton University professor who writes about race, religion, and democracy. He spoke in Winnipeg as part of the Axworthy Distinguished Lecture Series on Social Justice and the Spur Festival on May 8 and 9, 2015. West spoke about the experience of indigenous peoples in Canada and the loss of their culture and spirituality, noting that the effects of colonization continue. He discussed that the effects are reinforced by a society that values men and profit - a society that devalues non-men and community and excludes indigenous peoples from Canadian society, causing higher rates of poverty, violence, and disease.

Dr. West reminded us that Canada is not alone in racism. Indigenous peoples of South Africa, Australia, New Zealand, India, and countries in the Middle East, experience it. He asked the audience to think about society and question the way we do things today. He said there is no reason to accept society as it is currently. West referred to African American traditions of jazz, blues, and gospel, to show the spirit of improvisation, strength, and love that can bring about social change. West also made it clear that race matters to everyone – effects of racism have an impact on everyone. To address problems of race we must work together as a community. As we fight for equality we must be careful not to hate. West urges us to love every person even as we fight discrimination.

Dr. Cornel West and co-panelist, Shahina Siddiqui